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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 8TH DAY OF JUNE 1978

BEFORE

THE HON'BLE MR. JUSTICE M.F. SALDANHA

W.P. 14361/1976

BETWEEN

Chandrashekar,
s/of. Sangappa
Panashetty,
age: 60 yrs.
R/of. Panashetti Galli
Jamakhandi
Dist: Bijapur

PETITIONER

(By Sri Ravi S. Balikai, Adv.)

AND

1. The Tahsildar (Land Reforms)
Jamakhandi, Dist: Bijapur
2. The Chairman
the Land Tribunal
Jamakhandi
Dist: Bijapur
3. Bhairu Kushaba Savant
@ Jadhav, major,
r/of. Bidari, Tal: Jamkhandi,
Dist: Bijapur

RESPONDENTS

(Smt. M.R. Shanthakumari, HCBP for R.1 & R.2)

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Memorandum of writ petition is filed under
Arts. 226 & 227 of the Constitution praying that
this Court be pleased to quash vide Annex.A dt.
13.9.76 by R-1 etc.

Writ petition coming on for prly. hearing
this day, the Court made the following

ORDER..





ORDER

I have heard the petitioner's learned advocate and the learned Govt. Advocate. The petitioner's learned advocate points out to me that the facts and records are undisputed in so far as there were 183 fully grown Babul trees on the land in dispute and the petitioner had applied for valuation of these trees in keeping with the provisions of the Act. Not only was an incorrect evaluation ~~was~~ done but when the petitioner agitated the matter the Tahsildar passed a cryptic order that since the trees were not fruit ^{/bearing/} trees that they have no value. It is this order that has been assailed. I am in agreement with the petitioner's learned counsel when he points out that if by operation of law the petitioner is entitled to the value of the trees that he cannot be technically deprived of his rightful entitlement merely because of some misguided circular that has been issued by one of the government departments. The provisions of the Act override any such circular. The learned counsel also demonstrates to me that with the passage of



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time the petitioner is seriously prejudiced because had he received a fair amount at the point of time when it ought to have ^{/been/} paid to him, that he would have not been put to the loss which would accrue to him today if a revaluation is done and some money is paid. He is right when he points out to me that the petitioner should not be subjected to financial loss because of delays that have been occasioned by the department.

2. The learned Govt. Advocate sought to justify the order on the ground that the Govt. circular fully justifies the order in question. I am unable to uphold this argument because the petitioner's right cannot be defeated by any such circular. At the same time it is necessary for this Court to bear in mind the fact that the petitioner should not be visited with any undue loss. To my mind if the escalation in the price of ~~the~~ timber is taken into account the petitioner would be sufficiently compensated as the passage of time is more than off-set by the rise in prices. It is however necessary that the petitioner gets his dues within a reasonable time and

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in order to ensure that the following directions are issued:-

a) The R.F.O. , Jamkhandi is hereby directed to survey the 183 trees in Revenue Survey No.44/2B, evaluate the correct market value and issue an auction notice for disposal of the timber in question. The respondent-3 shall be permitted to participate in the auction. The R.F.O. shall fix the reserve price at a figure not less than the value of the yield from the trees and once the highest bid is obtained the respondent-3 shall be given the option in writing of depositing the amount with the department within a period of 15 days . If the respondent-3 declines to do or ~~for~~ after having agreed fails to do so within the stipulated period, the bid amount shall be collected, the timber shall be disposed of and the proceeds shall be paid over to the petitioner. This procedure shall be completed within an outer limit of four months from today.

3. The impugned order is accordingly set aside. The petition is allowed. In the circumstances of the case, there shall be no order as to costs. It is made clear, that the ~~entire~~ *interim*



order prohibiting respondent-3 from either cutting or in any manner interfering with the trees shall continue until the aforesaid procedure is completed.

Sd/-
JUDGE

GS/-

